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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,196	01/29/2001	Masashi Sato	106872	6868

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EXAMINER
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THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/20/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/770,196

Applicant(s)

SATO ET AL.

Examiner

Carrie S Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Pri ority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed on September 3, 2002 have been acknowledged. Examiner acknowledges that addition of new claims 13 and 14.
2. Examiner acknowledges applicant's amendment to claim 9 to recite the transitional phrase "comprising".
3. Examiner will supply form PTO 1449.
4. Examiner acknowledges that the Inoue et al. reference was improperly identified as U.S. Patent Number 4,772,959 due to a typeover on Form PTO-892. The Inoue et al. reference should have identified as U.S. Patent Number 4,722,959. A corrected Form PTO-892 will accompany this action.
5. Applicant's argument that Groups I, II and III as an olefin based resin composition, a method for preparing an olefin based composition and an electrical wire respectively are interrelated is not persuasive. An olefin based resin composition can be made by a different method and an electrical wire can be covered with a different olefin based resin composition. In addition, the search required for each grouping is different thus meeting the requirement for burden upon the examiner.

The requirement is still deemed proper and therefore is made **FINAL**.

6. The 35 U.S.C. 102 (b) rejection for claims 9-12 under Inoue et al., U.S. Patent Number 4,722,959 is withdrawn due to applicant's argument.
7. The 35 U.S.C. 103(a) rejections for claims 9-11 under Hashimoto et al., U.S. Patent Number 5,561,185 in view of Icenogle et al., U.S. Patent Number 4,853,154 and for claim 12

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under Hashimoto et al., U.S. Patent Number 5,561,185 in view of Icenogle et al., U.S. Patent Number 4,853,154 and in further view of Rolland, U.S. Patent Number 4,948,669 are withdrawn due to applicant's argument.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

7. Claims 9-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. The phrase "substantially no other resin" in claim 9 is a relative phrase that renders the claim indefinite. The phrase "substantially no other resin" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claim 9 does not distinctly point out that there are no other resins present. In the instant case, the phrase "substantially no other resins" could possibly mean a resin is present in a minimal amount. Claims 10-14 are rejected, as they are dependent upon claim 9.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al., U.S. Patent Number 4,722,959 in view of EP 0273516.

Inoue disclose a flame retardant olefin polymer composition that can be used to provide insulation for electrical wires as per instant claim 9 (see abstract and column 2, lines 8-11).

Inoue also discloses that the resin composition comprises 60% to 90% ethylene- $\alpha$ -olefin copolymer wherein the  $\alpha$ -olefin is propylene wherein the melt index is within the range of 0.05 to 50 grams per 10 minutes as per instant claims 9, 13 and 14 (see column 2, lines 33-41 and column 5, lines 65-68). In addition, Inoue discloses magnesium that is surface treated with an aminosilane and is in the amount of 20 to 200 parts by weight, preferably 40 to 150 parts by weight, based on 100 parts by weight of resin as per instant claims 9, 10 and 12 (see column 2, lines 45-59 and column 8, lines 63-66). Additionally, Inoue discloses that the resin composition comprises 5% to 20% by weight styrene-butadiene rubber modified with 0.05%-10% maleic anhydride as per instant claims 9-11 (see column 7, lines 34-60). Although Inoue discloses an olefin polymer modified with an unsaturated carboxylic acid, the reference does not distinctly point out that the polymer is propylene as per instant claims 9, 10 and 11. The European reference 0273516 teaches a flame retardant insulation composition for wire and cable comprising 5% to 40% by weight of a hydrogenated monoalkenylarene conjugated diene, a block copolymer that is propylene and at least 1 percent of the propylene has been functionalized with an acid anhydride such as maleic anhydride and an inorganic filler such as magnesium hydroxide that has been surface treated with a coupling agent as per instant claims 9-12 (see pages 2-4). The EP reference may also contain mineral, which is not a resin (see page 5, lines 6-10). It would have been obvious to one of ordinary skill in the art to use a modified block copolymer of the

European reference with the resin composition of Inoue because it is known that these blends can be greatly enhanced by the incorporation of hydrogenated monoalkenyl arene-conjugated block copolymers and that these blends are relatively easy to process, have good flame retardency and give a low production of toxic and corrosive gases when burned as shown by the European reference on page 2, lines 33-40.

11. Applicant's arguments with respect to claims 9-14 have been considered but are moot in view of the new ground(s) of rejection.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia

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H. Kelly, can be reached at (703) 308-0449. The fax phone numbers for the Group are (703) 872-9310 {before finals} and (703) 872-9311 {after finals}.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

CYNTHIA H. KELLY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

A handwritten signature in black ink, appearing to read "Cynthia Kelly", written in a cursive style.